

Amendment After Final Rejection  
Serial No. 09/873,566

US010269

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-12 and 14-23 are pending. Claims 1-3, 6-8, 11, 12, 16, 17, 20 and 21 stand rejected. Claims 4, 5, 9, 10, 14, 15, 18, 19, 22, and 23 are objected to but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Claims 4, 5, 8, 9, 14, 15, 22 and 23 have been amended.

Claims 1-3, 16, 17, 20 and 21 stand rejected under 35 USC 103(a) as being unpatentable over Ran (USP no. 5,768,533) in view of Farinacci (USP no. 5,519,704).

Applicant respectfully disagrees with, and explicitly traverses, the reason for rejecting the claims. Claim 1 recites, in parts, "a method for transmitting a multimedia bitstream in real-time between a server and a client over a packet network, the method comprising the steps of ... storing copies of the plurality of packets for a predetermined time period, which is updated by the client..."

Ran discloses a communication system for transmission of segmented video images and provides for retransmission of packets indicated to have been received with an error. The receiving unit provides a retransmission when a received packet is determined to contain an error. To provide for retransmission, Ran teaches the transmitter using a FIFO to maintain recently transmitted image packets. Ran further discloses that when a retransmission request is received, a search of the FIFO is performed. If the packet is not contained in the buffer, the retransmission request is not honored. If, however, the packet is contained in the buffer, then the time of transmission of the packet is evaluated and based on defined timing relationships the information associated with the packet may or may not be retransmitted. Ran further discloses that the information associated with the packet may be held in the buffer for a period similar to the round trip time or three times transmission time (see col. 8, line 60-col. 9, line 17).

Hence, Ran discloses a system that maintains packet information for a known period of time and upon reception of a retransmission request provides the packet information, if the information is available. As stated in the Office Action, Ran fails to

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disclose "storing copies of the plurality of packets for a predetermined time period, which is updated by the client," as is recited in the claims.

Farinacci discloses a system to deliver multicast packets quickly to some receivers even when there are unacknowledged packets pending for other receivers. Farinacci discloses that when a packet is multicast from a sender to all its neighbors, the sender puts the packet on a queue for each neighbor and retransmits the packet if an acknowledgement has not been received within a predetermined period of time. If the acknowledgement has not been received, the packet is retransmitted as a unicast packet (see Abstract). Farinacci further discloses that "the period of time [i.e., the predetermined time] may be selected in response to an expected delay time ... If no acknowledgement is received the router 105 [i.e., the sender] will repeatedly increase the lag time allowed a retransmit, until a predetermined number of tries has been made." (see col. 6, lines 26-41).

Hence, Farinacci discloses a system responsive to not receiving a message within a predetermined time period after a packet is transmitted, initiates a retransmission of the packet and dynamically extends the predetermined time period for the receiving unit to provide an acknowledgement message to the retransmitted packet. The extension of the predetermined time period is based on the number of tries the transmitter attempts to retransmit to the receiving unit and is not determined in conjunction with any information provided by the receiving unit. In fact, the predetermined time is extended when no information is received from the receiving unit.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

With reference to claim 1, neither Ran nor Farinacci, individually or in combination, teach or suggest all the elements recited in the above referred-to claims. More specifically, the Office Action states that Ran fails to teach the claim element "storing copies of the plurality of packets for a predetermined time period, which is

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updated by the client" and, as shown above, Farinacci cannot be said to determine a predetermined time updated by the client as Farinacci initiates a retransmission when the transmitter fails to receive an acknowledgement message from the receiving unit (client). Farinacci, in fact, teaches that the allowable predetermined retransmission time is determined when no information is provided by the receiving unit. Hence, even if there were some motivation to combine the teachings of the cited reference, which applicant believes does not exist, the combined device would fail to teach all the features recited in independent claim 1.

Furthermore, Ran teaches retransmission upon reception of an indication that retransmission is necessary whereas Farinacci teaches retransmission when not receiving an acknowledgement of transmission. Hence, contrary to the statements made in the Office Action, there is no motivation to combine the teachings of Farinacci into the device of Ran as the reasons for the retransmission teach away from each other.

Even if the dynamic extension of the predetermined time period of Farinacci were incorporated into the device of Ran, the combined device would still not render obvious the invention recited in claim 1, as the dynamically extended predetermined time is not updated by the client, as is claimed. Further, once the predetermined time was extended to a maximum time, there is no means to reduce the time when no errors are detected. Hence, the combined device not only would not include all the elements claimed, but it would operate in a manner to require additional memory and/or extra processing.

Accordingly, the invention recited in claim 1 is not rendered obvious by the teachings of the cited references, as there is no suggest or motivation to combine the references and even if the references were combined, the result device fails to recite all the elements claimed in independent claim 1.

Having shown that the invention claimed is not rendered obvious by the cited references, applicant submits the reason for the rejection has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

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With regard to the remaining independent claims these claims recite subject matter similar to that recited in claim 1 and were rejected citing substantially same references used in rejecting claim 1. Applicant submits that in view of the remarks made in response to the rejection of claim 1 which are also applicable, and reasserted, as if in full in response to the rejection of the remaining independent claims, the reason for the rejection of these claims has been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Claims 6-8 stands rejected under 35 USC §103(a) as being unpatentable over Ran in view of Doshi (USP no. 5,222,061). Claim 11 stands rejected under 35 USC §103(a) as being unpatentable over Ran in view of Doshi and further in view of Zhu (USP no. 6,085,252). Claim 12 stands rejected under 35 USC §103(a) as being unpatentable over Ran.

Regarding each of the referred to dependent claims, these claims are each dependent from an independent claim discussed above and are therefore patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual consideration of the patentability of each on its own merits is respectfully requested.

Applicant wishes to thank the examiner for the indication of allowable subject matter in claims 4, 5, 9, 10, 14, 15, 18, 19, 22 and 23. However, applicant believes that for the remarks made, herein, all the claims are in an allowable form and elects not to amend the claims as suggested by the Office Action. Applicant, however, reserves the right to amend the claims at a later time.

Although the last Office Action was made final, this amendment should be entered. No matter has been added to the claims that would require comparison with the prior art or any further review only require a cursory review is required by the examiner. Rather, the amendments have been made to present the equations recited in a more mathematical presentation. The amendment therefore should be entered without requiring a showing under 37 CFR 1.116(b).

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For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Russell Gross  
Registration No. 40,007

  
By:   
Steve Cha  
Attorney for Applicant  
Registration No. 44,069

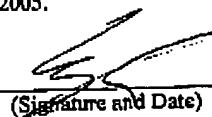
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Mail all correspondence to:  
Russell Gross, Registration No. 40,007  
US PHILIPS CORPORATION  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001  
Phone: (914) 333-9624  
Fax: (914) 332-0615

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Steve Cha, Reg. No. 44,069  
(Name of Registered Rep.)

  
(Signature and Date)